

H.R.1349

Federal Accounting Oversight Board Act of 2009 (Introduced in House)
HR 1349 IH

111th CONGRESS
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H. R. 1349

To establish the Federal Accounting Oversight Board to approve and oversee accounting principles and standards for the purposes of the Federal financial regulatory agencies, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

March 5, 2009

Mr. PERLMUTTER (for himself and Mr. LUCAS) introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To establish the Federal Accounting Oversight Board to approve and oversee accounting principles and standards for the purposes of the Federal financial regulatory agencies, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the 'Federal Accounting Oversight Board Act of 2009'.

SEC. 2. THE FEDERAL ACCOUNTING OVERSIGHT BOARD.

(a) Establishment- There is hereby established the Federal Accounting Oversight Board (hereinafter in this Act referred to as the 'FAOB').

(b) Duties-

(1) APPROVAL OF ACCOUNTING POLICY- The FAOB shall approve and oversee accounting principles and standards for purposes of the Federal financial regulatory agencies and reporting requirements required by such agencies. In approving and overseeing such accounting principles and standards, the FAOB shall consider--

(A) the extent to which accounting principles and standards create systemic risk exposure for--

(i) the United States public;

(ii) the United States financial markets; and

(iii) global financial markets;

(B) the extent to which various accounting principles and standards resolve questions concerning liquid and illiquid instruments;

(C) whether certain accounting principles and standards should apply to distressed markets differently than well-functioning markets;

(D) the balance between investors' need to know a value of a company or financial institution's balance sheet at any given time versus financial regulators' responsibility to examine a company or financial institution's capital and value on both a liquidation and going concern basis;

(E) the accuracy and transparency of financial statements;

(F) the ability of investors and regulators to accurately judge the current and long term financial condition of companies and financial institutions from their financial statements;

(G) the need for accounting principles and standards to take into account the need for financial institutions to maintain adequate reserves to cover expected losses from assets held by such institution;

(H) the extent to which accounting principles and standards can improve the usefulness of financial reporting by focusing on the characteristics of relevance and reliability and on the qualities of comparability and consistency;

(I) the extent to which such principles and standards can be kept current to reflect changes in methods of doing business and changes in the economic environment; and

(J) any other factors that the FAOB considers appropriate.

(2) CONSULTATION AND PUBLIC COMMENT-

(A) IN GENERAL- In carrying out its duties, the FAOB may consult with such organizations or entities as the FAOB believes to be appropriate, including, but not limited to, the Financial Accounting Standards Board, the International Accounting Standards Board, or the Public Company Accounting Oversight Board.

(B) CONSULTATION; PUBLIC COMMENT- The FAOB shall, before approving a specific accounting principle or standard--

(i) solicit input from financial regulators on the principle or standard, including from the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the Federal Housing Finance Agency, the Administrator of the National Credit Union Administration, the President of the National Association of Insurance Commissioners, and the Chairman of the Commodities Future Trading Commission; and

(ii) provide the public with an opportunity to comment on the principle or standard.

(C) SAFETY AND SOUNDNESS CONSIDERATIONS- If any Federal financial regulatory agency determines that any accounting principle or standard approved by the FAOB, or any accounting principle or standard in effect on the effective date of this Act, has an adverse effect on the safety and soundness of the entities it regulates, the health of the United States financial system, or the United States economy, the agency may request authorization from the FAOB to review such accounting principle or standard for the agency, and the FAOB shall determine whether the standard or principle should continue to be applied or instead removed on either a temporary or permanent basis. The FAOB shall have 30 days or such additional time as it may need up to 180 days to review and act on such request. The agency may exercise discretion in ignoring the principle or standard on an emergency or temporary basis for up to 30 days unless otherwise extended by FAOB. The FAOB shall also consider whether any change authorized under this paragraph should be permanently approved by the FAOB as an accounting principle or standard.

(3) **REPORTS-** The FAOB shall, not less often than yearly, compile a report on the accounting principles and standards that the FAOB has reviewed and approved either temporarily or permanently, and--

- (A) submit such report to the Congress;
- (B) submit such report to the Financial Accounting Standards Board;
- (C) submit such report to the International Accounting Standards Board; and
- (D) make such report available to the public on a website.

(c) **Membership-**

(1) **IN GENERAL-** The FAOB shall consist of five members:

- (A) The Chairman of the Board of Governors of the Federal Reserve System.
- (B) The Secretary of the Treasury.
- (C) The Chairman of the Securities and Exchange Commission.
- (D) The Chairman of the Federal Deposit Insurance Corporation.
- (E) The Chairman of the Public Company Accounting Oversight Board.

(2) **CHAIRMAN-** The Chairman of the Board of Governors of the Federal Reserve System shall serve as the chairman of the FAOB.

(d) **Funding-**

(1) **ANNUAL BUDGET-** The FAOB shall establish a budget for each fiscal year.

(2) **SOURCE OF FUNDS-** The budget of the FAOB shall be payable from annual support fees, in accordance with this subsection.

(3) **ANNUAL SUPPORT FEE FOR THE FAOB-**

(A) **ESTABLISHMENT OF FEE-** The FAOB shall establish a reasonable annual support fee (or a formula for the computation thereof), as may be necessary or appropriate to establish and maintain the FAOB. Such fee may also cover costs incurred in the FAOB's first fiscal year (which may be a short fiscal year), or may be levied separately with respect to such short fiscal year.

(B) **ASSESSMENTS-** The rules of the FAOB under subparagraph (A) shall provide for the equitable allocation, assessment, and collection by the FAOB (or an agent appointed by the FAOB) of the fee established under subparagraph (A), among registered public accounting firms, allowing for differentiation among classes of firms, as appropriate.

(4) **LIMITATION ON FEE-** The amount of fees collected under this subsection for a fiscal year on behalf of the FAOB shall not exceed the recoverable budget expenses of the FAOB (which may include operating, capital, and accrued items), referred to in paragraph (2).

(5) **FEE REQUIREMENT FOR REGISTRATION BY THE PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD-** Section 102 of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7212) is amended by adding at the end the following new subsection:

“(g) **Annual Fee To Support the Federal Accounting Oversight Board-** In addition to any other fees required by this title, a registered public accounting firm shall pay the annual support fee allocated to the registered public accounting firm under section 2(d) of the Federal Accounting Oversight Board Act of 2009.”

(6) **START-UP EXPENSES-** From the unexpended balances of the appropriations to the Security and Exchange Commission for fiscal year 2009, the Secretary of the Treasury is authorized to advance to the FAOB funds not to exceed the amount necessary to cover the expenses of the FAOB during its first fiscal year (which may be a short fiscal year).

(e) **Pay; Travel Expenses-** Members of the FAOB shall not receive any additional pay, allowances, or benefits by reason of their service on the FAOB, except that each member shall

receive travel expenses, including per diem in lieu of subsistence, in accordance with applicable provisions under subchapter I of chapter 57 of title 5, United States Code.

(f) Meetings- The FAOB shall meet at the call of the Chairman of the FAOB.

(g) Staff-

(1) IN GENERAL- The FAOB may appoint and fix the pay of any personnel that the FAOB considers appropriate to carry out its duties under this Act.

(2) EXPERTS AND CONSULTANTS- The FAOB may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(3) STAFF OF AGENCIES- Upon request of the FAOB, the head of any Federal department or agency may detail, on a reimbursable basis, any of the personnel of that department or agency to the FAOB to assist it in carrying out its duties under this Act.

(h) Powers-

(1) HEARINGS AND SESSIONS- The FAOB may, for the purpose of carrying out this Act, hold hearings, sit and act at times and places, take testimony, and receive evidence as the FAOB considers appropriate and may administer oaths or affirmations to witnesses appearing before it.

(2) POWERS OF MEMBERS AND AGENTS- Any member or agent of the FAOB may, if authorized by the FAOB, take any action which the FAOB is authorized to take by this Act.

(3) OBTAINING OFFICIAL DATA- The FAOB may secure directly from any department or agency of the United States information necessary to enable it to carry out this Act. Upon request of the Chairman of the FAOB, the head of that department or agency shall furnish that information to the FAOB.

SEC. 3. REQUIRING AGENCIES TO CONFORM TO FAOB APPROVED ACCOUNTING PRACTICES AND STANDARDS.

Notwithstanding any other provision of law, a Federal financial regulatory agency shall, not later than 180 days, or within a shorter time period as the FAOB may prescribe, after the FAOB approves an accounting principle or standard, ensure that all rules and regulations made by such agency conform with the approval made by the FAOB.

SEC. 4. TRANSFER OF STANDARD SETTING BODY OVERSIGHT AUTHORITY FROM THE SEC TO THE FAOB.

(a) Securities Act of 1933- Section 19(b) of the Securities Act of 1933 (15 U.S.C. 77s(b)) is amended--

(1) by striking `Commission' each place it appears and inserting `Federal Accounting Oversight Board';

(2) by striking `subsection (a) and under section 13(b) of the Securities Exchange Act of 1934' and inserting `the Federal Accounting Oversight Board Act of 2009'; and

(3) by striking `subsection (a) and section 13(b) of the Securities Exchange Act of 1934' and inserting `the Federal Accounting Oversight Board Act of 2009'.

SEC. 5. DEFINITIONS.

For the purposes of this Act:

(1) FEDERAL FINANCIAL REGULATORY AGENCY- The term `Federal financial regulatory agency' means--

(A) the Office of Thrift Supervision;

- (B) the Federal Deposit Insurance Corporation;
- (C) the National Credit Union Administration;
- (D) the Securities and Exchange Commission;
- (E) the Federal Reserve System; and
- (F) the Office of the Comptroller of the Currency.

(2) REGISTERED PUBLIC ACCOUNTING FIRM- The term `registered public accounting firm' shall have the same meaning as in section 2(a)(12) of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7201(a)(12)).

(3) SECURITIES LAWS DEFINED- The term `securities laws' shall have the same meaning as in section 3(a)(47) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(47)).

